

Summary of U.S.-Chile FTA Labor Chapter

Summary: The Labor Chapter is a carefully crafted and intensely negotiated text that fully incorporates the labor-related negotiating objectives of TPA. The Labor Chapter and its Annex draw from, but do not replicate, prior U.S. linkages of labor to trade in the North American Agreement on Labor Cooperation (NAALC, the labor side agreement to NAFTA) and the US-Jordan FTA.

Outline of Labor Chapter: The US and Chile each reaffirm their obligations as members of the International Labor Organization (ILO), and commit to strive to ensure that the fundamental workers' rights of the ILO are recognized by domestic law. Each Party promises not to encourage trade or investment by weakening the protections of domestic labor laws. Procedural guarantees ensure that workers and employers have access to fair, equitable and transparent justice in the enforcement of labor laws. The Labor Chapter creates a US-Chile Labor Affairs Council to oversee implementation of the Chapter, consultations on labor matters, and labor cooperation activities. An Annex to the Labor Chapter creates a mechanism for ongoing labor cooperation focusing on the improvement of labor standards, particularly the ILO Declaration on Fundamental Principles and Rights at Work and the elimination of the worst forms of child labor.

Effective enforcement of labor laws: The obligation to not fail to effectively enforce domestic labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade, is the central commitment of each Party. The Labor Chapter does recognize the rights of each Party not only to establish its own labor laws but also to exercise discretion with respect to regulatory, prosecutorial and compliance matters, and to make resource allocation decisions with regard to enforcement priorities. In cases where a Party believes that the other Party is not in compliance with its effective enforcement obligation, cooperative consultations are the first step in bringing a Party into compliance. However, after 60 days of such consultations (the same time period as for allegations of non-compliance with commercial provisions of the FTA) the complaining party may move to the dispute settlement provisions of the agreement.

With the exception that special rosters will be maintained for dispute settlement panels involving allegations of trade-related non-enforcement of labor laws, all other dispute settlement procedures are the same as for commercial disputes. Enforcement of non-compliance with a dispute settlement panel would be through monetary assessments not to exceed \$15 million annually, with the prevailing party in a labor-related dispute having the option of imposing tariffs (suspension of FTA benefits) if the assessments are not paid.

Definitions: The labor laws that each Party is obligated to effectively enforce are defined as those statutes and regulations directly related to TPA's core labor standards: the right of association; the right to organize and bargain collectively; no forced or compulsory labor; a minimum age for the employment of children and elimination of the worst forms of child labor;

and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. For the U.S., our commitment is limited to effectively enforce Federal statutes and regulations, not State or local labor laws.